

APPENDIX E:
PERMITS

MARINA AND ACCESS CHANNEL
MAINTENANCE DREDGING

U.S. ARMY CORPS OF ENGINEERS

NATIONWIDE PERMIT #35



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

APR 20 2005

Operations Division

U.S. Army Garrison
Fort Belvoir Directorate of Public Works
Attn: Bill Sanders
9430 Jackson Loop, Suite 100
Fort Belvoir, Virginia 22060-5116

Dear Mr. Sanders:

This is in reference to your application, CENAB-OP-RMS(FT. BELVOIR MARINA MAINTENANCE DREDGING)05-01773-11, dated March 15, 2005, for Department of the Army (DA) verification of Nationwide Permit (NWP) authorization to maintenance dredge an existing marina and associated access channel. The access channel will be dredged to -5 feet MLW with a 1-foot overdredge and a width of 40-feet. The marina will be dredged to a depth of -5 feet MLW with a 1-foot overdredge. The dredging will be mechanical and the dredged material placed at Dominion Generation's Possum Point Power Station, Fairfax County, Virginia. 38,00 cu.yds. will be removed from the channel and 37,000 cu.yds. will be removed from the marina in Dogue Creek, Fairfax County, Virginia.

This waterway has been determined to be within our regulatory jurisdiction and the activity proposed does require DA authorization.

Our evaluation has determined that the proposed work, if accomplished in accordance with the enclosed plan(s), is authorized by Nationwide Permit(s) for purposes of Section 10 of the River and Harbor Act of 1899 and/or Section 404 of the Clean Water Act as published in the January 15, 2002 Federal Register, Final Notice of Issuance, Reissuance, and Modification of NWPs (67 FR Vol 10), NWP number(s) (35), provided all State authorizations are granted. If any of the information contained in the application and/or plan(s) is later found to be in error, this authorization may be subject to modification, suspension, or revocation.

Enclosed is a list of conditions which must be followed for purposes of the NWP(s) and the management practices which should be followed in performing the work. In addition, by copy of this letter, we are forwarding your application to the Virginia Department of

Environmental Quality (DEQ). Any conditions from DEQ placed on the project will be considered as conditions of the NWP.

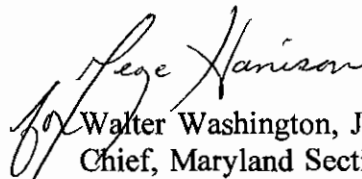
NWP general condition number 14 requires every permittee who receives a NWP verification from the Corps of Engineers to submit a signed certification regarding completed work and any required mitigation. Therefore, upon completion of the herein described work, you are required to complete the enclosed compliance certification letter and return it to the address indicated thereon.

This verification is valid for two years from the date of this letter unless the NWP is modified, reissued, or revoked. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice announcing the changes when they occur. Furthermore, if you commence or are under contract to commence this activity before the date the NWP is modified or revoked, you will have 12 months from the date of the modification or revocation to complete the activity under the present terms and conditions of this NWP.

After you have obtained all required Federal, State and/or local authorizations, and have complied with the appropriate local critical area regulations, you may proceed with the authorized work.

If you have any questions concerning this matter, please call George Harrison of this office at (410) 962-6002.

Sincerely,

A handwritten signature in cursive script, appearing to read "George Harrison".

Walter Washington, Jr.
Chief, Maryland Section Southern

Enclosure

35. Maintenance Dredging of Existing Basins. Excavation and removal of accumulated sediment for maintenance of existing marina basins, access channels to marinas or boat slips, and boat slips to previously authorized depths or controlling depths for ingress/ egress, whichever is less, provided the dredged material is disposed of at an upland site and proper siltation controls are used. (Section 10)

C. Nationwide Permit General Conditions The following General Conditions must be followed in order for any authorization by an NWP to be valid:

1. Navigation. No activity may cause more than a minimal adverse effect on navigation.
2. Proper Maintenance. Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.
3. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.
4. Aquatic Life Movements. No activity may substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.
5. Equipment. Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.
6. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)). Additionally, any case specific conditions added by the Corps or by the state or tribe in its Section 401 Water Quality Certification and Coastal Zone Management Act consistency determination.
7. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).
8. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
9. Water Quality. (a) In certain states and tribal lands an individual 401 Water Quality Certification must be obtained or waived (See 33 CFR 330.4(c)). (b) For NWPs 12, 14, 17, 18, 32, 39, 40, 42, 43, and 44, where the state or tribal 401 certification (either generically or individually) does not require or approve water quality management measures, the permittee must provide water quality management measures that will ensure that the authorized work does not result in more than minimal degradation of water quality (or the Corps determines that compliance with state or local standards, where applicable, will ensure no more than minimal adverse effect on water quality). An important component of water quality management includes stormwater management that minimizes degradation of the downstream aquatic system, including water quality (refer to General Condition 21 for stormwater management requirements). Another important component of water quality management is the establishment and maintenance of vegetated buffers next to open waters, including streams

(refer to General Condition 19 for vegetated buffer requirements for the NWP). This condition is only applicable to projects that have the potential to affect water quality. While appropriate measures must be taken, in most cases it is not necessary to conduct detailed studies to identify such measures or to require monitoring.

10. Coastal Zone Management. In certain states, an individual state coastal zone management consistency concurrence must be obtained or waived (see Section 330.4(d)).

11. Endangered Species. (a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District Engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or is located in the designated critical habitat and shall not begin work on the activity until notified by the District Engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that may affect Federally-listed endangered or threatened species or designated critical habitat, the notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. As a result of formal or informal consultation with the FWS or NMFS the District Engineer may add species-specific regional endangered species conditions to the NWPs. (b) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the USFWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the USFWS and NMFS or their world wide web pages at <http://www.fws.gov/r9endspp/endspp.html> and <http://www.nfms.gov/prot?res/esahome.html> respectively.

12. Historic Properties. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR part 325, Appendix C. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

13. Notification. (a) Timing; where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a preconstruction notification (PCN) as early as possible. The District Engineer must determine if the notification is complete within 30

days of the date of receipt and can request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the District Engineer will notify the prospective permittee that the notification is still incomplete and the PCN review process will not commence until all of the requested information has been received by the District Engineer. The prospective permittee shall not begin the activity: (1) Until notified in writing by the District Engineer that the activity may proceed under the NWP with any special conditions imposed by the District or Division Engineer; or (2) If notified in writing by the District or Division Engineer that an Individual Permit is required; or (3) Unless 45 days have passed from the District Engineer's receipt of the complete notification and the prospective permittee has not received written notice from the District or Division Engineer. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Notification: The notification must be in writing and include the following information: (1) Name, address and telephone numbers of the prospective permittee; (2) Location of the proposed project; (3) Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), Regional General Permit(s), or Individual Permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP (Sketches usually clarify the project and when provided result in a quicker decision.); (4) For NWPs 7, 12, 14, 18, 21, 34, 38, 39, 41, 42, and 43, the PCN must also include a delineation of affected special aquatic sites, including wetlands, vegetated shallows (e.g., submerged aquatic vegetation, seagrass beds), and riffle and pool complexes (see paragraph 13(f)); (5) For NWP 7 (Outfall Structures and Maintenance), the PCN must include information regarding the original design capacities and configurations of those areas of the facility where maintenance dredging or excavation is proposed; (6) For NWP 14 (Linear Transportation Crossings), the PCN must include a compensatory mitigation proposal to offset permanent losses of waters of the US and a statement describing how temporary losses of waters of the US will be minimized to the maximum extent practicable; (7) For NWP 21 (Surface Coal Mining Activities), the PCN must include an Office of Surface Mining (OSM) or stateapproved mitigation plan, if applicable. To be authorized by this NWP, the District Engineer must determine that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are minimal both individually and cumulatively and must notify the project sponsor of this determination in writing; (8) For NWP 27 (Stream and Wetland Restoration), the PCN must include documentation of the prior condition of the site that will be reverted by the permittee; (9) For NWP 29 (Single-Family Housing), the PCN must also include: (i) Any past use of this NWP by the Individual Permittee and/or the permittee's spouse; (ii) A statement that the single-family housing activity is for a personal residence of the permittee; (iii) A description of the entire parcel, including its size, and a delineation of wetlands. For the purpose of this NWP, parcels of land measuring 14-acre or less will not require a formal on-site delineation. However, the applicant shall provide an indication of where the wetlands are and the amount of wetlands that exists on the property. For parcels greater than 14-acre in size, formal wetland delineation must be prepared in accordance with

the current method required by the Corps. (See paragraph 13(f)); (iv) A written description of all land (including, if available, legal descriptions) owned by the prospective permittee and/or the prospective permittee's spouse, within a one mile radius of the parcel, in any form of ownership (including any land owned as a partner, corporation, joint tenant, co-tenant, or as a tenant-by-the-entirety) and any land on which a purchase and sale agreement or other contract for sale or purchase has been executed; (10) For NWP 31 (Maintenance of Existing Flood Control Projects), the prospective permittee must either notify the District Engineer with a PCN prior to each maintenance activity or submit a five year (or less) maintenance plan. In addition, the PCN must include all of the following: (i) Sufficient baseline information identifying the approved channel depths and configurations and existing facilities. Minor deviations are authorized, provided the approved flood control protection or drainage is not increased; (ii) A delineation of any affected special aquatic sites, including wetlands; and, (iii) Location of the dredged material disposal site; (11) For NWP 33 (Temporary Construction, Access, and Dewatering), the PCN must also include a restoration plan of reasonable measures to avoid and minimize adverse effects to aquatic resources; (12) For NWPs 39, 43 and 44, the PCN must also include a written statement to the District Engineer explaining how avoidance and minimization for losses of waters of the US were achieved on the project site; (13) For NWP 39 and NWP 42, the PCN must include a compensatory mitigation proposal to offset losses of waters of the US or justification explaining why compensatory mitigation should not be required. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed; (14) For NWP 40 (Agricultural Activities), the PCN must include a compensatory mitigation proposal to offset losses of waters of the US. This NWP does not authorize the relocation of greater than 300 linear-feet of existing serviceable drainage ditches constructed in non-tidal streams unless, for drainage ditches constructed in intermittent nontidal streams, the District Engineer waives this criterion in writing, and the District Engineer has determined that the project complies with all terms and conditions of this NWP, and that any adverse impacts of the project on the aquatic environment are minimal, both individually and cumulatively; (15) For NWP 43 (Stormwater Management Facilities), the PCN must include, for the construction of new stormwater management facilities, a maintenance plan (in accordance with state and local requirements, if applicable) and a compensatory mitigation proposal to offset losses of waters of the US. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed; (16) For NWP 44 (Mining Activities), the PCN must include a description of all waters of the US adversely affected by the project, a description of measures taken to minimize adverse effects to waters of the US, a description of measures taken to comply with the criteria of the NWP, and a reclamation plan (for all aggregate mining activities in isolated waters and non-tidal wetlands adjacent to headwaters and any hard rock/mineral mining activities); (17) For activities that may adversely affect

Federally-listed endangered or threatened species, the PCN must include the name(s) of those endangered or threatened species that may be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work; and (18) For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. (c) Form of Notification: The standard Individual Permit application form (Form ENG 4345) may be used as the notification but must clearly indicate that it is a PCN and must include all of the information required in (b) (1)-(18) of General Condition 13. A letter containing the requisite information may also be used. (d) District Engineer's Decision: In reviewing the PCN for the proposed activity, the District Engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. The prospective permittee may submit a proposed mitigation plan with the PCN to expedite the process. The District Engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. If the District Engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the District Engineer will notify the permittee and include any conditions the District Engineer deems necessary. The District Engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee is required to submit a compensatory mitigation proposal with the PCN, the proposal may be either conceptual or detailed. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the District Engineer will expeditiously review the proposed compensatory mitigation plan. The District Engineer must review the plan within 45 days of receiving a complete PCN and determine whether the conceptual or specific proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the District Engineer be minimal, the District Engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP. If the District Engineer determines that the adverse effects of the proposed work are more than minimal, then the District Engineer will notify the applicant either: (1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an Individual Permit; (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) that the project is authorized under the NWP with specific modifications or conditions. Where the District Engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level. When conceptual mitigation is included, or a mitigation plan is required under item (2) above, no work in

waters of the US will occur until the District Engineer has approved a specific mitigation plan. (e) Agency Coordination: The District Engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level. For activities requiring notification to the District Engineer that result in the loss of greater than 12-acre of waters of the US, the District Engineer will provide immediately (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy to the appropriate Federal or state offices (USFWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the District Engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the District Engineer will wait an additional 15 calendar days before making a decision on the notification. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The District Engineer will indicate in the administrative record associated with each notification that the resource agencies' concerns were considered. As required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act, the District Engineer will provide a response to NMFS within 30 days of receipt of any Essential Fish Habitat conservation recommendations. Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notification. (f) Wetland Delineations: Wetland delineations must be prepared in accordance with the current method required by the Corps (For NWP 29 see paragraph (b)(9)(iii) for parcels less than (14-acre in size). The permittee may ask the Corps to delineate the special aquatic site. There may be some delay if the Corps does the delineation. Furthermore, the 45-day period will not start until the wetland delineation has been completed and submitted to the Corps, where appropriate.

14. Compliance Certification. Every permittee who has received NWP verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification will be forwarded by the Corps with the authorization letter and will include: (a) A statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions; (b) A statement that any required mitigation was completed in accordance with the permit conditions; and (c) The signature of the permittee certifying the completion of the work and mitigation.

15. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the US authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit (e.g. if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the US for the total project cannot exceed 13-acre).

16. Water Supply Intakes. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in the proximity of a public water supply intake except where the activity is for repair of the public water supply intake structures or adjacent bank stabilization.

17. Shellfish Beds. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4.

18. Suitable Material. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the CWA).

19. Mitigation. The District Engineer will consider the factors discussed below when determining the acceptability of appropriate and practicable mitigation necessary to offset adverse effects on the aquatic environment that are more than minimal. (a) The project must be designed and constructed to avoid and minimize adverse effects to waters of the US to the maximum extent practicable at the project site (i.e., on site). (b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal. (c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland impacts requiring a PCN, unless the District Engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. Consistent with National policy, the District Engineer will establish a preference for restoration of wetlands as compensatory mitigation, with preservation used only in exceptional circumstances. (d) Compensatory mitigation (i.e., replacement or substitution of aquatic resources for those impacted) will not be used to increase the acreage losses allowed by the acreage limits of some of the NWPs. For example, 14-acre of wetlands cannot be created to change a 34-acre loss of wetlands to a 12-acre loss associated with NWP 39 verification. However, 12-acre of created wetlands can be used to reduce the impacts of a 12-acre loss of wetlands to the minimum impact level in order to meet the minimal impact requirement associated with NWPs. (e) To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes. Examples of mitigation that may be appropriate and practicable include, but are not limited to: reducing the size of the project; establishing and maintaining wetland or upland vegetated buffers to protect open waters such as streams; and replacing losses of aquatic resource functions and values by creating, restoring, enhancing, or preserving similar functions and values, preferably in the same watershed. (f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., easements, deed restrictions) of vegetated buffers to open waters. In many cases, vegetated buffers will be the only compensatory mitigation required. Vegetated buffers should consist of native species. The width of the vegetated buffers required will address documented water quality or aquatic habitat loss concerns. Normally, the vegetated buffer will be 25 to 50 feet wide on each side of the stream, but the District Engineers may require slightly wider vegetated buffers to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the Corps will determine the appropriate compensatory mitigation (e.g., stream buffers or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where vegetated

buffers are determined to be the most appropriate form of compensatory mitigation, the District Engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland impacts. (g) Compensatory mitigation proposals submitted with the "notification" may be either conceptual or detailed. If conceptual plans are approved under the verification, then the Corps will condition the verification to require detailed plans be submitted and approved by the Corps prior to construction of the authorized activity in waters of the US. (h) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases that require compensatory mitigation, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

20. Spawning Areas. Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., excavate, fill, or smother downstream by substantial turbidity) of an important spawning area are not authorized.

21. Management of Water Flows. To the maximum extent practicable, the activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters) and the structure or discharge of dredged or fill material must withstand expected high flows. The activity must, to the maximum extent practicable, provide for retaining excess flows from the site, provide for maintaining surface flow rates from the site similar to preconstruction conditions, and provide for not increasing water flows from the project site, relocating water, or redirecting water flow beyond preconstruction conditions. Stream channelizing will be reduced to the minimal amount necessary, and the activity must, to the maximum extent practicable, reduce adverse effects such as flooding or erosion downstream and upstream of the project site, unless the activity is part of a larger system designed to manage water flows. In most cases, it will not be a requirement to conduct detailed studies and monitoring of water flow. This condition is only applicable to projects that have the potential to affect waterflows. While appropriate measures must be taken, it is not necessary to conduct detailed studies to identify such measures or require monitoring to ensure their effectiveness. Normally, the Corps will defer to state and local authorities regarding management of water flow.

22. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to the acceleration of the passage of water, and/or the restricting its flow shall be minimized to the maximum extent practicable. This includes structures and work in navigable waters of the US, or discharges of dredged or fill material.

23. Waterfowl Breeding Areas. Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

24. Removal of Temporary Fills. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

25. Designated Critical Resource Waters. Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, National Wild and Scenic Rivers, critical habitat for Federally listed threatened and endangered species, coral reefs, state natural

heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the District Engineer after notice and opportunity for public comment. The District Engineer may also designate additional critical resource waters after notice and opportunity for comment. (a) Except as noted below, discharges of dredged or fill material into waters of the US are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, and 44 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. Discharges of dredged or fill materials into waters of the US may be authorized by the above NWPs in National Wild and Scenic Rivers if the activity complies with General Condition 7. Further, such discharges may be authorized in designated critical habitat for Federally listed threatened or endangered species if the activity complies with General Condition 11 and the USFWS or the NMFS has concurred in a determination of compliance with this condition. (b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with General Condition 13, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The District Engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

26. Fills Within 100-Year Floodplains. For purposes of this General Condition, 100-year floodplains will be identified through the existing Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or FEMA-approved local floodplain maps. (a) Discharges in Floodplain; Below Headwaters. Discharges of dredged or fill material into waters of the US within the mapped 100-year floodplain, below headwaters (i.e. five cfs), resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, 43, and 44. (b) Discharges in Floodway; Above Headwaters. Discharges of dredged or fill material into waters of the US within the FEMA or locally mapped floodway, resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, and 44. (c) The permittee must comply with any applicable FEMA-approved state or local floodplain management requirements.

27. Construction Period. For activities that have not been verified by the Corps and the project was commenced or under contract to commence by the expiration date of the NWP (or modification or revocation date), the work must be completed within 12- months after such date (including any modification that affects the project). For activities that have been verified and the project was commenced or under contract to commence within the verification period, the work must be completed by the date determined by the Corps. For projects that have been verified by the Corps, an extension of a Corps approved completion date maybe requested. This request must be submitted at least one month before the previously approved completion date.

D. Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other Federal, state, or local permits, approvals, or authorizations required by law.

3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project.

E. Definitions Best Management Practices (BMPs): BMPs are policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or nonstructural. A BMP policy may affect the limits on a development. Compensatory Mitigation: For purposes of Section 10/404, compensatory mitigation is the restoration, creation, enhancement, or in exceptional circumstances, preservation of wetlands and/or other aquatic resources for the purpose of compensating for unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved. Creation: The establishment of a wetland or other aquatic resource where one did not formerly exist. Enhancement: Activities conducted in existing wetlands or other aquatic resources that increase one or more aquatic functions. Ephemeral Stream: An ephemeral stream has flowing water only during and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow. Farm Tract: A unit of contiguous land under one ownership that is operated as a farm or part of a farm. Flood Fringe: That portion of the 100- year floodplain outside of the floodway (often referred to as "floodway fringe"). Floodway: The area regulated by Federal, state, or local requirements to provide for the discharge of the base flood so the cumulative increase in water surface elevation is no more than a designated amount (not to exceed one foot as set by the National Flood Insurance Program) within the 100-year floodplain. Independent Utility: A test to determine what constitutes a single and complete project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility. Intermittent Stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow. Loss of Waters of the US: Waters of the US that include the filled area and other waters that are permanently adversely affected by flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent above-grade, at-grade, or below-grade fills that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the US is the threshold measurement of the impact to existing waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and values. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the US temporarily filled, flooded, excavated, or drained, but restored to preconstruction contours and elevations after construction, are not included in the measurement of loss of waters of the US. Impacts to

ephemeral waters are only not included in the acreage or linear foot measurements of loss of waters of the US or loss of stream bed, for the purpose of determining compliance with the threshold limits of the NWP's. Non-tidal Wetland: A non-tidal wetland is a wetland (i.e., a water of the US) that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found at 33 CFR 328.3(b). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line). Open Water: An area that, during a year with normal patterns of precipitation, has standing or flowing water for sufficient duration to establish an ordinary high water mark. Aquatic vegetation within the area of standing or flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. The term "open water" includes rivers, streams, lakes, and ponds. For the purposes of the NWP's, this term does not include ephemeral waters. Perennial Stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow. Permanent Above-grade Fill: A discharge of dredged or fill material into waters of the US, including wetlands, that results in a substantial increase in ground elevation and permanently converts part or all of the waterbody to dry land. Structural fills authorized by NWP's 3, 25, 36, etc. are not included. Preservation: The protection of ecologically important wetlands or other aquatic resources in perpetuity through the implementation of appropriate legal and physical mechanisms. Preservation may include protection of upland areas adjacent to wetlands as necessary to ensure protection and/or enhancement of the overall aquatic ecosystem. Restoration: Re-establishment of wetland and/or other aquatic resource characteristics and function(s) at a site where they have ceased to exist, or exist in a substantially degraded state. Riffle and Pool Complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools. Single and Complete Project: The term "single and complete project" is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers (see definition of independent utility). For linear projects, the "single and complete project" (i.e., a single and complete crossing) will apply to each crossing of a separate water of the US (i.e., a single waterbody) at that location. An exception is for linear projects crossing a single waterbody several times at separate and distant locations: each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies. Stormwater Management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment. Stormwater Management Facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and BMPs, which retain water for a period of time to control runoff

and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff. Stream Bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed. Stream Channelization: The manipulation of a stream channel to increase the rate of water flow through the stream channel. Manipulation may include deepening, widening, straightening, armoring, or other activities that change the stream crosssection or other aspects of stream channel geometry to increase the rate of water flow through the stream channel. A channelized stream remains a water of the US, despite the modifications to increase the rate of water flow. Tidal Wetland: A tidal wetland is a wetland (i.e., water of the US) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line (i.e., spring high tide line) and are inundated by tidal waters two times per lunar month, during spring high tides. Vegetated Buffer: A vegetated upland or wetland area next to rivers, streams, lakes, or other open waters which separates the open water from developed areas, including agricultural land. Vegetated buffers provide a variety of aquatic habitat functions and values (e.g., aquatic habitat for fish and other aquatic organisms, moderation of water temperature changes, and detritus for aquatic food webs) and help improve or maintain local water quality. A vegetated buffer can be established by maintaining an existing vegetated area or planting native trees, shrubs, and herbaceous plants on land next to openwaters. Mowed lawns are not considered vegetated buffers because they provide little or no aquatic habitat functions and values. The establishment and maintenance of vegetated buffers is a method of compensatory mitigation that can be used in conjunction with the restoration, creation, enhancement, or preservation of aquatic habitats to ensure that activities authorized by NWP's result in minimal adverse effects to the aquatic environment. (See General Condition 19.) Vegetated Shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems. Waterbody: A waterbody is any area that in a normal year has water flowing or standing above ground to the extent that evidence of an ordinary high water mark is established. Wetlands contiguous to the waterbody are considered part of the waterbody.

SUBJECT: CENAB-OP-RMS (FT. BELVOIR MARINA MAINTENANCE
DREDGING) 05-01773-11

Name of Permittee:

Date of Issuance:

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

US Army Corps of Engineers
Baltimore District
CENAB-OP-RMS
P.O. Box 1715
Baltimore, Maryland 21203-1715

Please note that your permitted activity is subject to compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with this permit, you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date

WATERLINE REPLACEMENT

U.S. ARMY CORPS OF ENGINEERS

NATIONWIDE PERMIT #12



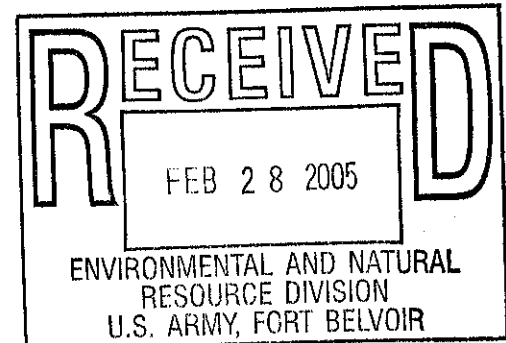
REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

FEB 17 2005

Operations Division

U.S. Army Garrison, Fort Belvoir
Directorate of Public Works
Attn: Bill Sanders, Director
9430 Jackson Loop, Suite 100
Fort Belvoir, Virginia 22060-5116



Dear Mr. Sanders:

This is in reference to your application, CENAB-OP-RMS(FORT BELVOIR WATER LINE REPLACEMENT)05-01204-11, dated December 23, 2004, for Department of the Army (DA) verification of Nationwide Permit (NWP) authorization to directional bore beneath Dogue Creek to a depth of 16-feet below MLW and for a distance of 175 LF to emplace an 8-inch waterline, replacing the existing one that will be abandoned. No wetlands or Waters of the United States will be impacted in Dogue Creek, Fairfax County, Virginia by this activity.

This waterway has been determined to be within our regulatory jurisdiction and the activity proposed does require DA authorization.

Our evaluation has determined that the proposed work, if accomplished in accordance with the enclosed plan(s), is authorized by Nationwide Permit(s) for purposes of Section 10 of the River and Harbor Act of 1899 and/or Section 404 of the Clean Water Act as published in the January 15, 2002 Federal Register, Final Notice of Issuance, Reissuance, and Modification of NWPs (67 FR Vol 10), NWP number(s) (12), provided all State authorizations are granted. If any of the information contained in the application and/or plan(s) is later found to be in error, this authorization may be subject to modification, suspension, or revocation.

Enclosed is a list of conditions which must be followed for purposes of the NWP(s) and the management practices which should be followed in performing the work. In addition, by copy of this letter, we are forwarding your application to the Virginia Department of Environmental Quality (VDEQ) for Water Quality Certification (WQC) and for a determination of Coastal Zone Consistency (CZC). The conditions of the WQC will be included as conditions of the NWP.

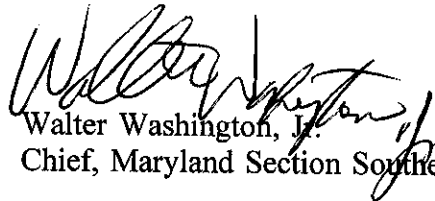
NWP general condition number 14 requires every permittee who receives a NWP verification from the Corps of Engineers to submit a signed certification regarding completed work and any required mitigation. Therefore, upon completion of the herein described work, you are required to complete the enclosed compliance certification letter and return it to the address indicated thereon.

This verification is valid for two years from the date of this letter unless the NWP is modified, reissued, or revoked. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice announcing the changes when they occur. Furthermore, if you commence or are under contract to commence this activity before the date the NWP is modified or revoked, you will have 12 months from the date of the modification or revocation to complete the activity under the present terms and conditions of this NWP.

After you have obtained all required Federal, State and/or local authorizations, and have complied with the appropriate local critical area regulations, you may proceed with the authorized work.

If you have any questions concerning this matter, please call George Harrison of this office at (410) 962-6002.

Sincerely,


Walter Washington, Jr.
Chief, Maryland Section Southern

Enclosure

12. Utility Line Activities. Activities required for the construction, maintenance and repair of utility lines and associated facilities in waters of the US as follows: (i) Utility lines: The construction, maintenance, or repair of utility lines, including outfall and intake structures and the associated excavation, backfill, or bedding for the utility lines, in all waters of the US, provided there is no change in preconstruction contours. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and radio and television communication (see Note 1, below). Material resulting from trench excavation may be temporarily sidecast (up to three months) into waters of the US, provided that the material is not placed in such a manner that it is dispersed by currents or other forces. The District Engineer may extend the period of temporary side casting not to exceed a total of 180 days, where appropriate. In wetlands, the top 6" to 12" of the trench should normally be backfilled with topsoil from the trench. Furthermore, the trench cannot be constructed in such a manner as to drain waters of the US (e.g., backfilling with extensive gravel layers, creating a french drain effect). For example, utility line trenches can be backfilled with clay blocks to ensure that the trench does not drain the waters of the US through which the utility line is installed. Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody. (ii) Utility line substations: The construction, maintenance, or expansion of a substation facility associated with a power line or utility line in non-tidal waters of the US, excluding non-tidal wetlands adjacent to tidal waters, provided the activity does not result in the loss of greater than 12-acre of non-tidal waters of the US. (iii) Foundations for overhead utility line towers, poles, and anchors: The construction or maintenance of foundations for overhead utility line towers, poles, and anchors in all waters of the US, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a larger single pad) are used where feasible. (iv) Access roads: The construction of access roads for the construction and maintenance of utility lines, including overhead power lines and utility line substations, in non-tidal waters of the US, excluding non-tidal wetlands adjacent to tidal waters, provided the discharges do not cause the loss of greater than 1/2-acre of non-tidal waters of the US. Access roads shall be the minimum width necessary (see Note 2, below). Access roads must be constructed so that the length of the road minimizes the adverse effects on waters of the US and as near as possible to preconstruction contours and elevations (e.g., at grade corduroy roads or geotextile/gravel roads). Access roads constructed above preconstruction contours and elevations in waters of the US must be properly bridged or culverted to maintain surface flows. The term "utility line" does not include activities which drain a water of the US, such as drainage tile, or french drains; however, it does apply to pipes conveying drainage from another area. For the purposes of this NWP, the loss of waters of the US includes the filled area plus waters of the US that are adversely affected by flooding, excavation, or drainage as a result of the project. Activities authorized by paragraph (i) through (iv) may not exceed a total of 1/2-acre loss of waters of the US. Waters of the US temporarily affected by filling, flooding, excavation, or drainage, where the project area is restored to preconstruction contours and elevation, is not included in the calculation of permanent loss of waters of the US. This includes temporary construction mats (e.g., timber, steel, geotextile) used during construction and removed upon completion of the work. Where certain functions and values of waters of the US are permanently adversely affected, such as

the conversion of a forested wetland to a herbaceous wetland in the permanently maintained utility line right-of-way, mitigation will be required to reduce the adverse effects of the project to the minimal level. Mechanized land clearing necessary for the construction, maintenance, or repair of utility lines and the construction, maintenance and expansion of utility line substations, foundations for overhead utility lines, and access roads is authorized, provided the cleared area is kept to the minimum necessary and preconstruction contours are maintained as near as possible. The area of waters of the US that is filled, excavated, or flooded must be limited to the minimum necessary to construct the utility line, substations, foundations, and access roads. Excess material must be removed to upland areas immediately upon completion of construction. This NWP may authorize utility lines in or affecting navigable waters of the US even if there is no associated discharge of dredged or fill material (See 33 CFR part 322). Notification: The permittee must notify the District Engineer in accordance with General Condition 13, if any of the following criteria are met: (a) Mechanized land clearing in a forested wetland for the utility line right-of-way; (b) A Section 10 permit is required; (c) The utility line in waters of the US, excluding overhead lines, exceeds 500 feet; (d) The utility line is placed within a jurisdictional area (i.e., water of the US), and it runs parallel to a stream bed that is within that jurisdictional area; (e) Discharges associated with the construction of utility line substations that result in the loss of greater than 110- acre of waters of the US; or (f) Permanent access roads constructed above grade in waters of the US for a distance of more than 500 feet. (g) Permanent access roads constructed in waters of the US with impervious materials. (Sections 10 and 404) Note 1: Overhead utility lines constructed over Section 10 waters and utility lines that are routed in or under Section 10 waters without a discharge of dredged or fill material require a Section 10 permit; except for pipes or pipelines used to transport gaseous, liquid, liquescent, or slurry substances over navigable waters of the US, which are considered to be bridges, not utility lines, and may require a permit from the USCG pursuant to section 9 of the Rivers and Harbors Act of 1899. However, any discharges of dredged or fill material associated with such pipelines will require a Corps permit under Section 404. Note 2: Access roads used for both construction and maintenance may be authorized, provided they meet the terms and conditions of this NWP. Access roads used solely for construction of the utility line must be removed upon completion of the work and the area restored to preconstruction contours, elevations, and wetland conditions. Temporary access roads for construction may be authorized by NWP 33. Note 3: Where the proposed utility line is constructed or installed in navigable waters of the US (i.e., Section 10 waters), copies of the PCN and NWP verification will be sent by the Corps to the National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), for charting the utility line to protect navigation.

C. Nationwide Permit General Conditions The following General Conditions must be followed in order for any authorization by an NWP to be valid:

1. Navigation. No activity may cause more than a minimal adverse effect on navigation.
2. Proper Maintenance. Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.
3. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.
4. Aquatic Life Movements. No activity may substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.
5. Equipment. Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.
6. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)). Additionally, any case specific conditions added by the Corps or by the state or tribe in its Section 401 Water Quality Certification and Coastal Zone Management Act consistency determination.
7. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).
8. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
9. Water Quality. (a) In certain states and tribal lands an individual 401 Water Quality Certification must be obtained or waived (See 33 CFR 330.4(c)). (b) For NWPs 12, 14, 17, 18, 32, 39, 40, 42, 43, and 44, where the state or tribal 401 certification (either generically or individually) does not require or approve water quality management measures, the permittee must provide water quality management measures that will ensure that the authorized work does not result in more than minimal degradation of water quality (or the Corps determines that compliance with state or local standards, where applicable, will ensure no more than minimal adverse effect on water quality). An important component of water quality management includes stormwater management that minimizes degradation of the downstream aquatic system, including water quality (refer to General Condition 21 for stormwater management requirements). Another important component of water quality management is the establishment and maintenance of vegetated buffers next to open waters, including streams

(refer to General Condition 19 for vegetated buffer requirements for the NWP). This condition is only applicable to projects that have the potential to affect water quality. While appropriate measures must be taken, in most cases it is not necessary to conduct detailed studies to identify such measures or to require monitoring.

10. Coastal Zone Management. In certain states, an individual state coastal zone management consistency concurrence must be obtained or waived (see Section 330.4(d)).

11. Endangered Species. (a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District Engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or is located in the designated critical habitat and shall not begin work on the activity until notified by the District Engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that may affect Federally-listed endangered or threatened species or designated critical habitat, the notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. As a result of formal or informal consultation with the FWS or NMFS the District Engineer may add species-specific regional endangered species conditions to the NWPs. (b) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the USFWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the USFWS and NMFS or their world wide web pages at <http://www.fws.gov/r9endspp/endspp.html> and <http://www.nfms.gov/prot?res/esahome.html> respectively.

12. Historic Properties. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR part 325, Appendix C. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

13. Notification. (a) Timing; where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a preconstruction notification (PCN) as early as possible. The District Engineer must determine if the notification is complete within 30

days of the date of receipt and can request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the District Engineer will notify the prospective permittee that the notification is still incomplete and the PCN review process will not commence until all of the requested information has been received by the District Engineer. The prospective permittee shall not begin the activity: (1) Until notified in writing by the District Engineer that the activity may proceed under the NWP with any special conditions imposed by the District or Division Engineer; or (2) If notified in writing by the District or Division Engineer that an Individual Permit is required; or (3) Unless 45 days have passed from the District Engineer's receipt of the complete notification and the prospective permittee has not received written notice from the District or Division Engineer. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2). (b) Contents of Notification: The notification must be in writing and include the following information: (1) Name, address and telephone numbers of the prospective permittee; (2) Location of the proposed project; (3) Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), Regional General Permit(s), or Individual Permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP (Sketches usually clarify the project and when provided result in a quicker decision.); (4) For NWPs 7, 12, 14, 18, 21, 34, 38, 39, 41, 42, and 43, the PCN must also include a delineation of affected special aquatic sites, including wetlands, vegetated shallows (e.g., submerged aquatic vegetation, seagrass beds), and riffle and pool complexes (see paragraph 13(f)); (5) For NWP 7 (Outfall Structures and Maintenance), the PCN must include information regarding the original design capacities and configurations of those areas of the facility where maintenance dredging or excavation is proposed; (6) For NWP 14 (Linear Transportation Crossings), the PCN must include a compensatory mitigation proposal to offset permanent losses of waters of the US and a statement describing how temporary losses of waters of the US will be minimized to the maximum extent practicable; (7) For NWP 21 (Surface Coal Mining Activities), the PCN must include an Office of Surface Mining (OSM) or stateapproved mitigation plan, if applicable. To be authorized by this NWP, the District Engineer must determine that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are minimal both individually and cumulatively and must notify the project sponsor of this determination in writing; (8) For NWP 27 (Stream and Wetland Restoration), the PCN must include documentation of the prior condition of the site that will be reverted by the permittee; (9) For NWP 29 (Single-Family Housing), the PCN must also include: (i) Any past use of this NWP by the Individual Permittee and/or the permittee's spouse; (ii) A statement that the single-family housing activity is for a personal residence of the permittee; (iii) A description of the entire parcel, including its size, and a delineation of wetlands. For the purpose of this NWP, parcels of land measuring 14-acre or less will not require a formal on-site delineation. However, the applicant shall provide an indication of where the wetlands are and the amount of wetlands that exists on the property. For parcels greater than 14-acre in size, formal wetland delineation must be prepared in accordance with

the current method required by the Corps. (See paragraph 13(f)); (iv) A written description of all land (including, if available, legal descriptions) owned by the prospective permittee and/or the prospective permittee's spouse, within a one mile radius of the parcel, in any form of ownership (including any land owned as a partner, corporation, joint tenant, co-tenant, or as a tenant-by-the-entirety) and any land on which a purchase and sale agreement or other contract for sale or purchase has been executed; (10) For NWP 31 (Maintenance of Existing Flood Control Projects), the prospective permittee must either notify the District Engineer with a PCN prior to each maintenance activity or submit a five year (or less) maintenance plan. In addition, the PCN must include all of the following: (i) Sufficient baseline information identifying the approved channel depths and configurations and existing facilities. Minor deviations are authorized, provided the approved flood control protection or drainage is not increased; (ii) A delineation of any affected special aquatic sites, including wetlands; and, (iii) Location of the dredged material disposal site; (11) For NWP 33 (Temporary Construction, Access, and Dewatering), the PCN must also include a restoration plan of reasonable measures to avoid and minimize adverse effects to aquatic resources; (12) For NWPs 39, 43 and 44, the PCN must also include a written statement to the District Engineer explaining how avoidance and minimization for losses of waters of the US were achieved on the project site; (13) For NWP 39 and NWP 42, the PCN must include a compensatory mitigation proposal to offset losses of waters of the US or justification explaining why compensatory mitigation should not be required. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed; (14) For NWP 40 (Agricultural Activities), the PCN must include a compensatory mitigation proposal to offset losses of waters of the US. This NWP does not authorize the relocation of greater than 300 linear-feet of existing serviceable drainage ditches constructed in non-tidal streams unless, for drainage ditches constructed in intermittent nontidal streams, the District Engineer waives this criterion in writing, and the District Engineer has determined that the project complies with all terms and conditions of this NWP, and that any adverse impacts of the project on the aquatic environment are minimal, both individually and cumulatively; (15) For NWP 43 (Stormwater Management Facilities), the PCN must include, for the construction of new stormwater management facilities, a maintenance plan (in accordance with state and local requirements, if applicable) and a compensatory mitigation proposal to offset losses of waters of the US. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed; (16) For NWP 44 (Mining Activities), the PCN must include a description of all waters of the US adversely affected by the project, a description of measures taken to minimize adverse effects to waters of the US, a description of measures taken to comply with the criteria of the NWP, and a reclamation plan (for all aggregate mining activities in isolated waters and non-tidal wetlands adjacent to headwaters and any hard rock/mineral mining activities); (17) For activities that may adversely affect

Federally-listed endangered or threatened species, the PCN must include the name(s) of those endangered or threatened species that may be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work; and (18) For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. (c) Form of Notification: The standard Individual Permit application form (Form ENG 4345) may be used as the notification but must clearly indicate that it is a PCN and must include all of the information required in (b) (1)-(18) of General Condition 13. A letter containing the requisite information may also be used. (d) District Engineer's Decision: In reviewing the PCN for the proposed activity, the District Engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. The prospective permittee may submit a proposed mitigation plan with the PCN to expedite the process. The District Engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. If the District Engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the District Engineer will notify the permittee and include any conditions the District Engineer deems necessary. The District Engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee is required to submit a compensatory mitigation proposal with the PCN, the proposal may be either conceptual or detailed. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the District Engineer will expeditiously review the proposed compensatory mitigation plan. The District Engineer must review the plan within 45 days of receiving a complete PCN and determine whether the conceptual or specific proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the District Engineer be minimal, the District Engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP. If the District Engineer determines that the adverse effects of the proposed work are more than minimal, then the District Engineer will notify the applicant either: (1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an Individual Permit; (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) that the project is authorized under the NWP with specific modifications or conditions. Where the District Engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level. When conceptual mitigation is included, or a mitigation plan is required under item (2) above, no work in

waters of the US will occur until the District Engineer has approved a specific mitigation plan. (e) Agency Coordination: The District Engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWP's and the need for mitigation to reduce the project's adverse environmental effects to a minimal level. For activities requiring notification to the District Engineer that result in the loss of greater than 12-acre of waters of the US, the District Engineer will provide immediately (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy to the appropriate Federal or state offices (USFWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the District Engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the District Engineer will wait an additional 15 calendar days before making a decision on the notification. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The District Engineer will indicate in the administrative record associated with each notification that the resource agencies' concerns were considered. As required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act, the District Engineer will provide a response to NMFS within 30 days of receipt of any Essential Fish Habitat conservation recommendations. Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notification. (f) Wetland Delineations: Wetland delineations must be prepared in accordance with the current method required by the Corps (For NWP 29 see paragraph (b)(9)(iii) for parcels less than (14-acre in size). The permittee may ask the Corps to delineate the special aquatic site. There may be some delay if the Corps does the delineation. Furthermore, the 45-day period will not start until the wetland delineation has been completed and submitted to the Corps, where appropriate.

14. Compliance Certification. Every permittee who has received NWP verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification will be forwarded by the Corps with the authorization letter and will include: (a) A statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions; (b) A statement that any required mitigation was completed in accordance with the permit conditions; and (c) The signature of the permittee certifying the completion of the work and mitigation.

15. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the US authorized by the NWP's does not exceed the acreage limit of the NWP with the highest specified acreage limit (e.g. if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the US for the total project cannot exceed 13-acre).

16. Water Supply Intakes. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in the proximity of a public water supply intake except where the activity is for repair of the public water supply intake structures or adjacent bank stabilization.

17. Shellfish Beds. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4.

18. Suitable Material. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the CWA).

19. Mitigation. The District Engineer will consider the factors discussed below when determining the acceptability of appropriate and practicable mitigation necessary to offset adverse effects on the aquatic environment that are more than minimal. (a) The project must be designed and constructed to avoid and minimize adverse effects to waters of the US to the maximum extent practicable at the project site (i.e., on site). (b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal. (c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland impacts requiring a PCN, unless the District Engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. Consistent with National policy, the District Engineer will establish a preference for restoration of wetlands as compensatory mitigation, with preservation used only in exceptional circumstances. (d) Compensatory mitigation (i.e., replacement or substitution of aquatic resources for those impacted) will not be used to increase the acreage losses allowed by the acreage limits of some of the NWPs. For example, 14-acre of wetlands cannot be created to change a 34-acre loss of wetlands to a 12-acre loss associated with NWP 39 verification. However, 12-acre of created wetlands can be used to reduce the impacts of a 12-acre loss of wetlands to the minimum impact level in order to meet the minimal impact requirement associated with NWPs. (e) To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes. Examples of mitigation that may be appropriate and practicable include, but are not limited to: reducing the size of the project; establishing and maintaining wetland or upland vegetated buffers to protect open waters such as streams; and replacing losses of aquatic resource functions and values by creating, restoring, enhancing, or preserving similar functions and values, preferably in the same watershed. (f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., easements, deed restrictions) of vegetated buffers to open waters. In many cases, vegetated buffers will be the only compensatory mitigation required. Vegetated buffers should consist of native species. The width of the vegetated buffers required will address documented water quality or aquatic habitat loss concerns. Normally, the vegetated buffer will be 25 to 50 feet wide on each side of the stream, but the District Engineers may require slightly wider vegetated buffers to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the Corps will determine the appropriate compensatory mitigation (e.g., stream buffers or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where vegetated

buffers are determined to be the most appropriate form of compensatory mitigation, the District Engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland impacts. (g) Compensatory mitigation proposals submitted with the "notification" may be either conceptual or detailed. If conceptual plans are approved under the verification, then the Corps will condition the verification to require detailed plans be submitted and approved by the Corps prior to construction of the authorized activity in waters of the US. (h) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases that require compensatory mitigation, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

20. Spawning Areas. Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., excavate, fill, or smother downstream by substantial turbidity) of an important spawning area are not authorized.

21. Management of Water Flows. To the maximum extent practicable, the activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters) and the structure or discharge of dredged or fill material must withstand expected high flows. The activity must, to the maximum extent practicable, provide for retaining excess flows from the site, provide for maintaining surface flow rates from the site similar to preconstruction conditions, and provide for not increasing water flows from the project site, relocating water, or redirecting water flow beyond preconstruction conditions. Stream channelizing will be reduced to the minimal amount necessary, and the activity must, to the maximum extent practicable, reduce adverse effects such as flooding or erosion downstream and upstream of the project site, unless the activity is part of a larger system designed to manage water flows. In most cases, it will not be a requirement to conduct detailed studies and monitoring of water flow. This condition is only applicable to projects that have the potential to affect waterflows. While appropriate measures must be taken, it is not necessary to conduct detailed studies to identify such measures or require monitoring to ensure their effectiveness. Normally, the Corps will defer to state and local authorities regarding management of water flow.

22. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to the acceleration of the passage of water, and/or the restricting its flow shall be minimized to the maximum extent practicable. This includes structures and work in navigable waters of the US, or discharges of dredged or fill material.

23. Waterfowl Breeding Areas. Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

24. Removal of Temporary Fills. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

25. Designated Critical Resource Waters. Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, National Wild and Scenic Rivers, critical habitat for Federally listed threatened and endangered species, coral reefs, state natural

heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the District Engineer after notice and opportunity for public comment. The District Engineer may also designate additional critical resource waters after notice and opportunity for comment. (a) Except as noted below, discharges of dredged or fill material into waters of the US are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, and 44 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. Discharges of dredged or fill materials into waters of the US may be authorized by the above NWPs in National Wild and Scenic Rivers if the activity complies with General Condition 7. Further, such discharges may be authorized in designated critical habitat for Federally listed threatened or endangered species if the activity complies with General Condition 11 and the USFWS or the NMFS has concurred in a determination of compliance with this condition. (b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with General Condition 13, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The District Engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal. 26. Fills Within 100-Year Floodplains. For purposes of this General Condition, 100-year floodplains will be identified through the existing Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or FEMA-approved local floodplain maps. (a) Discharges in Floodplain; Below Headwaters. Discharges of dredged or fill material into waters of the US within the mapped 100-year floodplain, below headwaters (i.e. five cfs), resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, 43, and 44. (b) Discharges in Floodway; Above Headwaters. Discharges of dredged or fill material into waters of the US within the FEMA or locally mapped floodway, resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, and 44. (c) The permittee must comply with any applicable FEMA-approved state or local floodplain management requirements.

27. Construction Period. For activities that have not been verified by the Corps and the project was commenced or under contract to commence by the expiration date of the NWP (or modification or revocation date), the work must be completed within 12- months after such date (including any modification that affects the project). For activities that have been verified and the project was commenced or under contract to commence within the verification period, the work must be completed by the date determined by the Corps. For projects that have been verified by the Corps, an extension of a Corps approved completion date maybe requested. This request must be submitted at least one month before the previously approved completion date.

D. Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other Federal, state, or local permits, approvals, or authorizations required by law.

3. NWP's do not grant any property rights or exclusive privileges.
4. NWP's do not authorize any injury to the property or rights of others.
5. NWP's do not authorize interference with any existing or proposed Federal project.

E. Definitions Best Management Practices (BMP's): BMP's are policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMP's are categorized as structural or nonstructural. A BMP policy may affect the limits on a development. Compensatory Mitigation: For purposes of Section 10/404, compensatory mitigation is the restoration, creation, enhancement, or in exceptional circumstances, preservation of wetlands and/or other aquatic resources for the purpose of compensating for unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved. Creation: The establishment of a wetland or other aquatic resource where one did not formerly exist. Enhancement: Activities conducted in existing wetlands or other aquatic resources that increase one or more aquatic functions. Ephemeral Stream: An ephemeral stream has flowing water only during and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow. Farm Tract: A unit of contiguous land under one ownership that is operated as a farm or part of a farm. Flood Fringe: That portion of the 100- year floodplain outside of the floodway (often referred to as "floodway fringe"). Floodway: The area regulated by Federal, state, or local requirements to provide for the discharge of the base flood so the cumulative increase in water surface elevation is no more than a designated amount (not to exceed one foot as set by the National Flood Insurance Program) within the 100-year floodplain. Independent Utility: A test to determine what constitutes a single and complete project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility. Intermittent Stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow. Loss of Waters of the US: Waters of the US that include the filled area and other waters that are permanently adversely affected by flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent above-grade, at-grade, or below-grade fills that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the US is the threshold measurement of the impact to existing waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and values. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the US temporarily filled, flooded, excavated, or drained, but restored to preconstruction contours and elevations after construction, are not included in the measurement of loss of waters of the US. Impacts to

ephemeral waters are only not included in the acreage or linear foot measurements of loss of waters of the US or loss of stream bed, for the purpose of determining compliance with the threshold limits of the NWP's. Non-tidal Wetland: A non-tidal wetland is a wetland (i.e., a water of the US) that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found at 33 CFR 328.3(b). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line). Open Water: An area that, during a year with normal patterns of precipitation, has standing or flowing water for sufficient duration to establish an ordinary high water mark. Aquatic vegetation within the area of standing or flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. The term "open water" includes rivers, streams, lakes, and ponds. For the purposes of the NWP's, this term does not include ephemeral waters. Perennial Stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow. Permanent Above-grade Fill: A discharge of dredged or fill material into waters of the US, including wetlands, that results in a substantial increase in ground elevation and permanently converts part or all of the waterbody to dry land. Structural fills authorized by NWP's 3, 25, 36, etc. are not included. Preservation: The protection of ecologically important wetlands or other aquatic resources in perpetuity through the implementation of appropriate legal and physical mechanisms. Preservation may include protection of upland areas adjacent to wetlands as necessary to ensure protection and/or enhancement of the overall aquatic ecosystem. Restoration: Re-establishment of wetland and/or other aquatic resource characteristics and function(s) at a site where they have ceased to exist, or exist in a substantially degraded state. Riffle and Pool Complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools. Single and Complete Project: The term "single and complete project" is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers (see definition of independent utility). For linear projects, the "single and complete project" (i.e., a single and complete crossing) will apply to each crossing of a separate water of the US (i.e., a single waterbody) at that location. An exception is for linear projects crossing a single waterbody several times at separate and distant locations: each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies. Stormwater Management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment. Stormwater Management Facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and BMPs, which retain water for a period of time to control runoff

and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff. Stream Bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed. Stream Channelization: The manipulation of a stream channel to increase the rate of water flow through the stream channel. Manipulation may include deepening, widening, straightening, armoring, or other activities that change the stream crosssection or other aspects of stream channel geometry to increase the rate of water flow through the stream channel. A channelized stream remains a water of the US, despite the modifications to increase the rate of water flow. Tidal Wetland: A tidal wetland is a wetland (i.e., water of the US) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line (i.e., spring high tide line) and are inundated by tidal waters two times per lunar month, during spring high tides. Vegetated Buffer: A vegetated upland or wetland area next to rivers, streams, lakes, or other open waters which separates the open water from developed areas, including agricultural land. Vegetated buffers provide a variety of aquatic habitat functions and values (e.g., aquatic habitat for fish and other aquatic organisms, moderation of water temperature changes, and detritus for aquatic food webs) and help improve or maintain local water quality. A vegetated buffer can be established by maintaining an existing vegetated area or planting native trees, shrubs, and herbaceous plants on land next to openwaters. Mowed lawns are not considered vegetated buffers because they provide little or no aquatic habitat functions and values. The establishment and maintenance of vegetated buffers is a method of compensatory mitigation that can be used in conjunction with the restoration, creation, enhancement, or preservation of aquatic habitats to ensure that activities authorized by NWP's result in minimal adverse effects to the aquatic environment. (See General Condition 19.) Vegetated Shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems. Waterbody: A waterbody is any area that in a normal year has water flowing or standing above ground to the extent that evidence of an ordinary high water mark is established. Wetlands contiguous to the waterbody are considered part of the waterbody.

SUBJECT: CENAB-OP-RMS(FORT BELVOIR WATER LINE
REPLACEMENT) 05-01204-11

Name of Permittee:

Date of Issuance:

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

US Army Corps of Engineers
Baltimore District
CENAB-OP-RMS
P.O. Box 1715
Baltimore, Maryland 21203-1715

Please note that your permitted activity is subject to compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with this permit, you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date



DEPARTMENT OF THE ARMY
U. S. ARMY GARRISON, FORT BELVOIR
DIRECTORATE OF PUBLIC WORKS
9430 JACKSON LOOP, SUITE 100
FORT BELVOIR, VIRGINIA 22060-5116

REPLY TO
ATTENTION OF

2005-01204-11

December 23, 2004

RECEIVED
JAN 28 2005

BY:

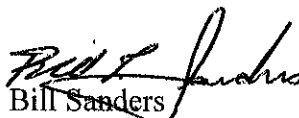
Mr. Benjamin McGinnis
Virginia Marine Resources Commission
Habitat Management Division
2600 Washington Avenue, 3rd floor
Newport News, Virginia 23607-0756

Dear Mr. McGinnis:

This letter transmits the Joint Permit Application for construction of a replacement water line under Dogue Creek at Fort Belvoir, Virginia. The proposed project entails installing an 8-inch HDPE water line by horizontal directional drilling, to replace an existing water line, of the same size and at the same location that is too shallow to withstand proposed maintenance dredging of Dogue Creek marina and channel. (A separate Joint Permit Application will be submitted for the proposed maintenance dredging project.)

The point of contact for this action is Dorothy Keough. She can be reached at (703) 806-0049.

Sincerely,

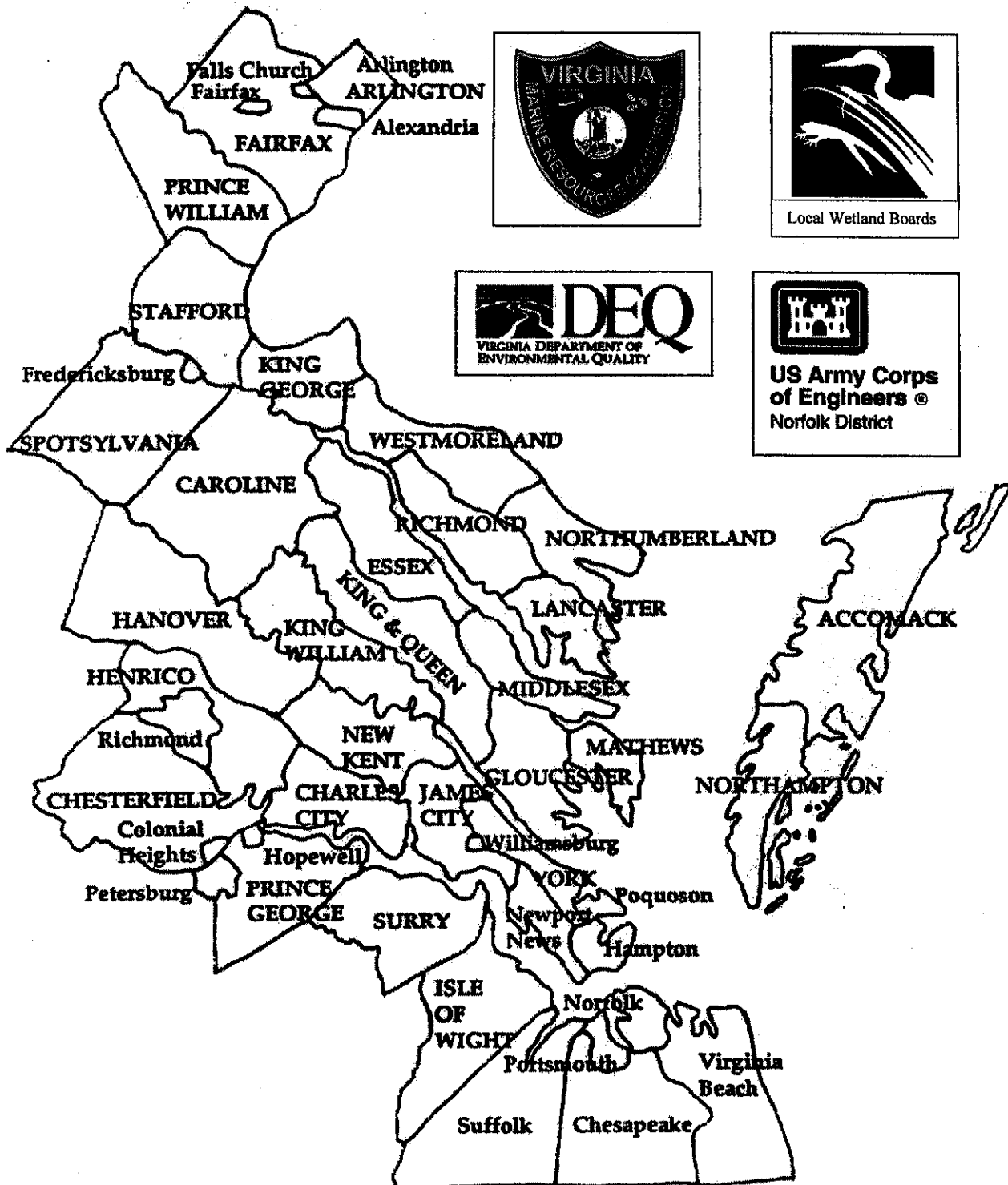

Bill Sanders
Director

Enclosure

Copy Furnished: George Harrison, Baltimore Corps of Engineers

"EXCELLENCE THROUGH SERVICE"

Local/State/Federal Joint Permit Application For Projects In TIDEWATER VIRGINIA



Part 1 – General Information

PLEASE PRINT OR TYPE ALL RESPONSES: If a question does not apply to your project, please print N/A (not applicable) in the block or space provided. If additional space is needed, attach 8-1/2" x 11" sheets of paper.

☒ Pre-construction Notification (PCN) for NWP 12 - Utility Line Activities

County or City in which the project is located: Fort Belvoir, Virginia

Waterway at project site: Dogue Creek

1. Applicant's name and complete mailing address:

(If multiple applicants, each must sign the applicant signature page)

U.S. Army Garrison, Ft. Belvoir
Thomas W. Williams, COL, Garrison Commander
9820 Flagler Road
Ft. Belvoir, VA 22060-5928

Contact Information:

Home ()

Work (703) 806-0049

Fax (703) 806-0622

Cell/ Pager ()

e-mail Dorothy.E.Keough@US.army.mil

Contact:

Dorothy Keough

Directorate of Public Works

9430 Jackson Loop, Suite 107

Ft. Belvoir, VA 22060-5116

2. Property owner(s) name and complete address, if different from applicant

Same as above

Contact Information:

Home ()

Work ()

Fax ()

Cell/ Pager ()

e-mail

3. Authorized agent name and complete mailing address (if applicable):

N/A

Contact Information:

Home ()

Work ()

Fax ()

Cell/ Pager ()

e-mail

4. Provide a detailed description, in the space below, of the project. For example, a description may be "construction of a timber bulkhead, 125 linear feet long, 6 feet high etc". Be sure to include how the construction site will be accessed, especially if clearing and/or grading will be required.

Please see attached sheet located at the end of Part 1 - General Information of this permit application.

FOR AGENCY USE ONLY

Notes:

JPA #

Part 1 - General Information (continued)

5. Have you obtained a contractor for the project? ___ Yes* X No. *If your answer is "Yes" complete the remainder of this question and submit the Applicant's and Contractor's Acknowledgment Form (enclosed)

Contractor's name and complete mailing address:

Unknown at this time

Contact Information:

Home () _____

Work () _____

Fax () _____

Cell/ Pager () _____

6. List the name, address and telephone number of the newspaper having general circulation in the area of the project. Failure to complete this question may delay local and State processing.

Name and complete mailing address:

The Washington Post
1150 15th Street NW
Washington, DC 20007

Telephone number

(202) 334-6200

7a. Give the following project location information:

Street Address (911 address if available) 5464 Hudson Road

Lot/Block/Parcel# Parcel ID: 1152 01 0001

Subdivision N/A

City / County Fort Belvoir/ Fairfax County

7b. If the project is located in a rural area, please provide driving directions.

From US Route 1, turn onto Pohick Road through Tulley Gate. This is the main entrance to the Post Monday through Friday (5:00 AM to 7:00 PM). All visitors to Fort Belvoir without a DOD decal on their vehicle must stop at Tulley Gate to receive a temporary vehicle pass. Before site visit, please contact Dorothy Keough, Department of Public Works (703-806-0049) to arrange access.

From Tulley Gate, continue on Pohick Road for approximately 2/3 miles. Pohick Road will turn into 12th Street and proceed for approximately 1/2 mile until Belvoir Road. Make a left on Belvoir Road and proceed for approximately 1/2 miles. Turn right on Surveyor Road and proceed until Mt. Vernon Road. Make a left on Mt. Vernon Road, cross over Dogue Creek, and Make a right on Hudson Road. Take first right to Dogue Creek Marina.

Driving directions can be obtained at www.belvoir.army.mil

Note: if the project is in an undeveloped subdivision or property, clearly stake and identify property lines and location of the proposed project. A supplemental map showing how the property is to be subdivided should also be provided.

Part 1 - General Information (continued)

8. What is the primary and secondary purpose of the project? For example, the primary purpose may be "to protect property from erosion due to boat wakes" and the secondary purpose may be "to provide safer access to a pier."

The purpose of this project involves decommissioning an existing water line and replacing in-kind a new water line at a greater depth. The existing 8 inch water line currently sits at a depth of 5.5 to 6 feet below mean low water (MLW) level. U.S. Army Garrison, Ft. Belvoir proposes to maintenance dredge Dogue Creek to a depth of 6 feet below MLW, thus potentially disturbing the existing water line. Therefore, the water line must be re-located to a greater depth. (Note: The proposed maintenance dredging of Dogue Creek is not included in this permit application and will be covered by a separate permit application.)

9. Proposed use (check one):

- ☐ Single user (private, non-commercial, residential)
☒ Multi-user (community, commercial, industrial, government)

10. Describe the measures that will be taken to avoid and minimize impacts, to the maximum extent practicable, to wetlands, surface waters, submerged lands, and buffer areas associated with any disturbance (clearing, grading, excavating) during and after project construction.

Please be advised that unavoidable losses of tidal wetlands and/or aquatic resources may require compensatory mitigation.

There will be no impacts to wetlands, surface waters, or buffer areas. Submerged lands will only be affected by horizontal directional drilling under Dogue Creek. The proposed utility alignment is the product of several design iterations that eliminated the impact to wetlands by avoiding wetlands. Sediment and erosion control measures will be implemented at the project site. Silt fences will be erected around the project site and the disturbed area will be re-graded and re-seeded (see Figure 1 in Part 4 - Plan View and Cross Section Drawings).

11. Have you previously had a site visit, applied to, or obtained a permit from any agency (Federal, State, or Local) for any portion of the project described in this application or any other project at the site?

☒ Yes* ☐ No * if you answered "Yes", provide the following information:

<u>Agency / Representative</u>	<u>Activity</u>	<u>Application No.</u>	<u>Action** & Date</u>
VMRC	Water line crossing at Dogue Creek	97-0704	Issued 9/10/97
USACE	Water line crossing at Dogue Creek	97-00601	Issued 5/15/97
USACE	Dredging for Ft. Belvoir Marina Facility	AHBBGC-0	Issued 7/31/69
USACE	Maintenance Dredging at Dogue Creek	76-1336	Issued 5/9/77

(**Issued, Denied, Withdrawn, or Site Visit)

Part 1 - General Information (continued)

12. Is this application being submitted for after-the-fact authorization for work which has already begun or been completed? ___ Yes ☒ No. If yes, be sure to clearly depict the portions of the project which are already complete in the project drawings.

13. Approximate cost of the entire project (materials, labor, etc.): \$ Approximately \$130,000

Approximate cost of that portion of the project which is below mean low water: \$ Approximately \$99,000

14. List the name and complete mailing address, including zip code, of each adjacent property owner to the project. (NOTE: a property owner/ applicant cannot be their own adjacent property owner. You must give the next owner down the river, creek, etc).

PROPERTY OWNER	PROPERTY LOCATION	MAILING ADDRESS	PARCEL ID
Mt. Vernon Terrace Com.	5305 Burke Dr.	PO Box 82 Mt. Vernon, VA 22121	1094 02E 0036

Note: Mt. Vernon Terrace Com. is the property owner adjacent to the proposed construction area on the east bank of Dogue Creek. The construction area on the west bank is completely surrounded by Fort Belvoir property. The closest parcel to the west bank is the same parcel owned by Mt. Vernon Terrace Com. See location map in Part 3.

Part 1 – General Information

Question 4.

Fort Belvoir proposes to conduct a maintenance dredging project at Dogue Creek Marina and the access channel from the marina to the Potomac River to restore function to the marina. Fort Belvoir will undertake an ancillary project to replace an existing 8-inch water line pipe under Dogue Creek that is currently too shallow to allow for the dredging activity. The proposed water line project involves decommissioning the existing water line and using Horizontal Directional Drilling (HDD) to install a new 8-inch HDPE pipe at a greater depth in the same location as the existing water line pipe. The replacement water line pipe will be placed under Dogue Creek 16 feet below mean low water (MLW) and at least 10 feet below the substrate (after dredging). The horizontal distance under Dogue Creek is approximately 175 feet and the total horizontal distance is approximately 335 feet. For HDD, two staging areas will be located on upland areas on either side of Dogue Creek—one on the marina property and the other on the opposite shore, also on Fort Belvoir property. Each staging area will be placed in a previously disturbed area and each staging area will occupy less than 7,000 square feet. One pit will be located in each staging area and will be approximately 4-6 feet deep and will occupy approximately 400 square feet. Access roads and staging areas are currently in place from the previous installation.

No disturbance of the channel will occur as a result of this project, and sediment and erosion control measures will be implemented at the project site. The project will be completed in approximately four to six weeks, with construction scheduled to begin in July 2005. Once construction is finished, there will be no further disturbance from operation of the underground water line.

Note: The proposed maintenance dredging project will be covered under a separate permit application.

Part 2 - Signatures

1. Applicants and property owners (if different from applicant).

NOTE: REQUIRED FOR ALL PROJECTS

Thomas W. Williams, COL

Commander, US Army Garrison, Ft. Belvoir

Applicant's Name (printed/typed)

(use if more than one applicant)

Applicant's Signature

(use if more than one applicant)

DEC 22 2004

Date

Property owner's name (if different)

(use if more than one owner)

Property owner's signature

(use if more than one owner)

Date

2. Applicants having agents (if applicable)

CERTIFICATION OF AUTHORIZATION

I, _____, hereby certify that I have authorized _____
(Applicant's name) (Agent's name)

to act on my behalf and take all actions necessary to the processing, issuance and acceptance of this permit and any and all standard and special conditions attached.

We hereby certify that the information submitted in this application is true and accurate to the best of our knowledge.

(Agent's Signature)

(Date)

(Applicant's Signature)

(Use if more than one applicant)

(Date)

Part 3 – Appendices (continued)

Appendix C: Crossings over, under, or on tidal wetlands and/or waters (including bridges, walkways, utility lines).

1) What is the purpose and method of installation of the crossing?

Please see attached sheet located at the end of Part 3 - Appendices of this permit application.

2) What is the width of the waterway and/or wetlands to be crossed?

from mean high water to mean high water? 180 feet.

from mean low water to mean low water? 176 feet.

3) For bridges (footbridges, golf cart bridges, roadway bridges, etc.), what is the width of the structure over the tidal wetlands and/or submerged lands? N/A square feet.

4a) For overhead crossings, what will be the height above mean high water? N/A feet.

If there are other overhead crossings in the area, what is the minimum height? N/A feet.

4b) For buried crossings, what will be the depth below the substrate? 10 feet. After proposed maintenance dredging activity

5) Will there be any excavation or fill required for placement of abutments, piers, towers, or other permanent structures on State-owned bottom or tidal wetlands? Yes X No.

a) If yes, please give the amount of excavation in wetlands _____ cubic yards

_____ square feet

Amount of excavation in submerged land _____ cubic yards

_____ square feet.

b) Amount of fill in wetlands _____ cubic yards

_____ square feet

Amount of fill in submerged lands _____ cubic yards

_____ square feet.

Note: Appendix A and Appendix B are not applicable to this project.

Part 3 – Appendices

Question 1.

Fort Belvoir proposes to conduct a maintenance dredging project at Dogue Creek Marina and the access channel from the marina to the Potomac River to restore function to the marina. Fort Belvoir will undertake an ancillary project to replace an existing 8-inch water line pipe under Dogue Creek that is currently too shallow to allow for the dredging activity. The proposed water line project involves decommissioning the existing water line and using Horizontal Directional Drilling (HDD) to install a new 8-inch HDPE pipe at a greater depth in the same location as the existing water line pipe. The replacement water line pipe will be placed under Dogue Creek 16 feet below mean low water (MLW) and at least 10 feet below the substrate (after dredging). The horizontal distance under Dogue Creek is approximately 175 feet and the total horizontal distance is approximately 335 feet. For HDD, two staging areas will be located on upland areas on either side of Dogue Creek—one on the marina property and the other on the opposite shore, also on Fort Belvoir property. Each staging area will be placed in a previously disturbed area and each staging area will occupy less than 7,000 square feet. One pit will be located in each staging area and will be approximately 4-6 feet deep and will occupy approximately 400 square feet. Access roads and staging areas are currently in place from the previous installation.

No disturbance of the channel will occur as a result of this project, and sediment and erosion control measures will be implemented at the project site. The project will be completed in approximately four to six weeks, with construction scheduled to begin in July 2005. Once construction is finished, there will be no further disturbance from operation of the underground water line.

Note: The proposed maintenance dredging project will be covered under a separate permit application.

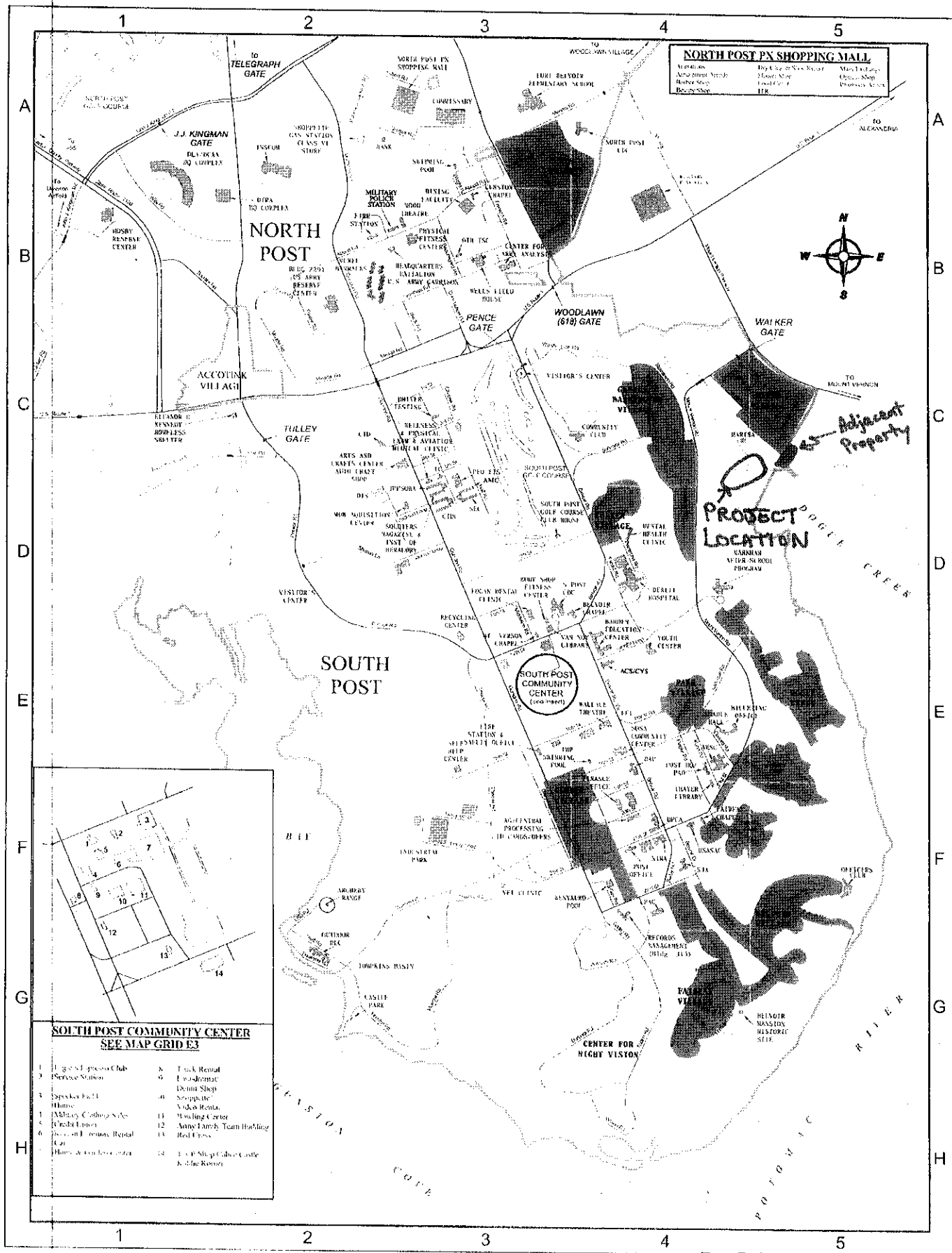
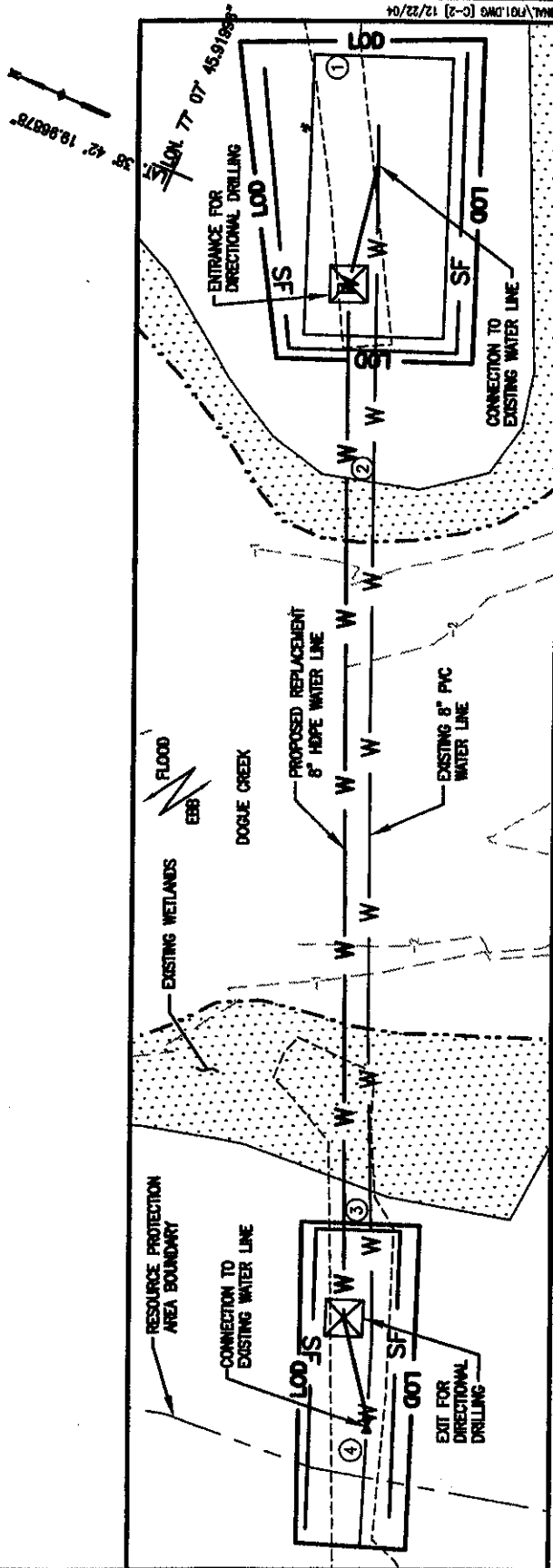


Figure 2. Location of Water Line Project and Adjacent Property Owner Parcel



PLAN

SCALE 1" = 60'

TOTAL AREA OF
DISTURBANCE = 13,800 SF



LEGEND

- W ——— EXISTING WATER LINE
- W ——— NEW WATER LINE
- — — EXISTING ACCESS ROADS
- LOO ——— LIMIT OF DISTURBANCE
- SF ——— SALT FENCE
- WETLANDS
- SHORELINE
- RESOURCE PROTECTION AREA BOUNDARY
- CONTOURS
- ① PHOTO LOCATION

<p>DESIGNED BY ALA</p>	<p>DRAWN BY JAP</p>	<p>DATE 12-7-04</p>	<p>PROJECT NO. 61605.09</p>
<p>CHECKED BY MJC/SIR</p>	<p>PROJECT MGR. JMB</p>	<p>SCALE 1"=60'</p>	<p>FIGURE 1</p>

DOGUE CREEK WATER
LINE REPLACEMENT
FORT BELVOIR, VA

EA
ENGINEERING,
SCIENCE, AND
TECHNOLOGY

WATERLINE REPLACEMENT

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

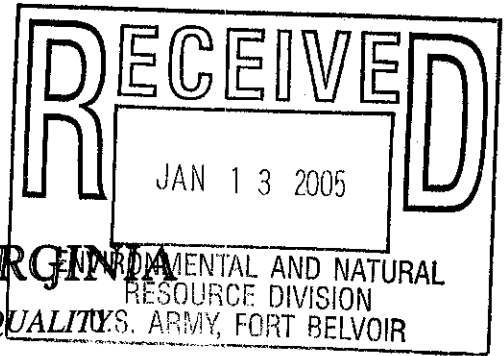
NOTIFICATION THAT NO
VIRGINIA WATER PROTECTION
PERMIT IS REQUIRED



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Northern Virginia Regional Office
13901 Crown Court
Woodbridge, VA 22193-1453
(703) 583-3800 fax (703) 583-3801
www.deq.state.va.us



W. Tayloe Murphy, Jr.
Secretary of Natural Resources

Robert G. Burnley
Director

Jeffery A. Steers
Regional Director

January 11, 2005

Ms. Dorothy Keough
Directorate of Public Works
9430 Jackson Loop, Suite 107
Fort Belvoir, Virginia 22060-5116

Re: Joint Permit Application 04-2889, Fort Belvoir Dogue Creek Water Line, Fairfax County, Virginia
Notification of No Permit Required

Dear Ms. Keough:

The Virginia Department of Environmental Quality (DEQ) has reviewed your Joint Permit Application (JPA) dated December 23, 2004 and received by DEQ on January 3, 2005 to replace an existing 8-inch water line by horizontal directional drilling under Dogue Creek south of Mount Vernon Memorial Highway (Route 235) in Fairfax County, Virginia.

The JPA indicates that there will be no discharge of fill material into or equipment placed in State waters; therefore, a Virginia Water Protection (VWP) general or individual permit will not be required for this project. You are advised that this does not give you the authority to violate Virginia's State Water Quality Standards.

Please note that should the size and scope of the project change, a VWP general or individual permit may be required. If you have any questions, please do not hesitate to contact Beth Sprenkle at (703) 583-3848 or mssprenkle@deq.virginia.gov.

Sincerely,

Joan C. Crowther
Water Resources Development Supervisor

cc: Ms. Terri Crockett-Augustine, U.S. Army Corps of Engineers, Dumfries Field Office
Mr. Ben McGinnis, Virginia Marine Resources Commission

WATERLINE REPLACEMENT

VIRGINIA MARINE RESOURCES COMMISSION

PERMIT



Permit #04-2889


Commonwealth of Virginia Marine Resources Commission Authorization

A Permit has been issued to:
Department of the Army, U. S. Army Garrison, Fort Belvoir
9820 Flagler Road
Fort Belvoir, Virginia 22060-5928

The Permittee is hereby authorized to:
install, by directional drill method, approximately 175 linear feet of eight-inch
diameter waterline, beneath Dogue Creek, adjacent to the U.S. Army Garrison, Fort
Belvoir in Fairfax County.

Issuance Date: 3/22/05

Expiration Date: 3/22/08



Commissioner or Designee

This Notice Must Be Conspicuously Displayed At Site Of Work

Sir/Madam:

Please be advised that I will commence work on 04-2889 *on*
(Permit Number)

(Date) *in* Dogue Creek/Fairfax County *(City/County)*
(Waterway)

I expect the work to be completed no later than _____

Attention. Ben McGinnis
(Environmental Engineer)

(Name of Permittee)
Dept. of the Army

**COMMONWEALTH OF VIRGINIA
MARINE RESOURCES COMMISSION
PERMIT**

The Commonwealth of Virginia, Marine Resources Commission, hereinafter referred to as the Commission, on this 22nd day of March 2005, hereby grants unto:

**Department of the Army
U.S. Army Garrison, Fort Belvoir
9820 Flagler Road
Fort Belvoir, Virginia 22060-5928**

hereinafter referred to as the Permittee, permission to:

 X Encroach in, on, or over State-owned subaqueous bottoms pursuant to Chapter 12, Subtitle III, of Title 28.2 of the Code of Virginia.

 Use or develop tidal wetlands pursuant to Chapter 13, Subtitle III, of Title 28.2 of the Code of Virginia.

Permittee is hereby authorized to install, by directional drill method, approximately 175 linear feet of eight-inch diameter waterline, beneath Dogue Creek, adjacent to the U.S. Army Garrison, Fort Belvoir in Fairfax County. All activities authorized herein shall be accomplished in conformance with the plans and drawings dated received December 29, 2004, which are attached and made a part of this permit.

This permit is granted subject to the following conditions:

- (1) The work authorized by this permit shall be completed by **March 22, 2008**. The Permittee shall notify the Commission when the project is completed. The completion date may be extended by the Commission in its discretion. Any such application for extension of time shall be in writing prior to the above completion date and shall specify the reason for such extension and the expected date of completion of construction. All other conditions remain in effect until revoked by the Commission or the General Assembly.
- (2) This permit grants no authority to the Permittee to encroach upon the property rights, including riparian rights, of others.
- (3) The duly authorized agents of the Commission shall have the right to enter upon the premises at reasonable times, for the purpose of inspecting the work being done pursuant to this permit.
- (4) The Permittee shall comply with the water quality standards as established by the Department of Environmental Quality, Water Division, and all other applicable laws, ordinances, rules and regulations affecting the conduct of the project. The granting of this permit shall not relieve the Permittee of the responsibility of obtaining any and all other permits or authority for the projects.
- (5) This permit shall not be transferred without written consent of the Commissioner.
- (6) This permit shall not affect or interfere with the right vouchsafed to the people of Virginia concerning fishing, fowling and the catching of and taking of oysters and other shellfish in and from the bottom of acres and waters not included within the terms of this permit.
- (7) The Permittee shall, to the greatest extent practicable, minimize the adverse effects of the project upon adjacent properties and wetlands and upon the natural resources of the Commonwealth.
- (8) This permit may be revoked at any time by the Commission upon the failure of the Permittee to comply with any of the terms and conditions hereof or at the will of the General Assembly of Virginia.
- (9) There is expressly excluded from the permit any portion of the waters within the boundaries of the Baylor Survey.
- (10) This permit is subject to any lease of oyster planting ground in effect on the date of this permit. Nothing in this permit shall be construed as allowing the Permittee to encroach on any lease without the consent of the leaseholder. The Permittee shall be liable for any damages to such lease.
- (11) The issuance of this permit does not confer upon the Permittee any interest or title to the beds of the waters.
- (12) All structures authorized by this permit, which are not maintained in good repair, shall be completely removed from State-owned bottom within three (3) months after notification by the Commission.
- (13) The Permittee agrees to comply with all of the terms and conditions as set forth in this permit and that the project will be accomplished within the boundaries as outlined in the plans attached hereto. Any encroachment beyond the limits of this permit shall constitute a Class 1 misdemeanor.
- (14) This permit authorizes no claim to archaeological artifacts that may be encountered during the course of construction. If, however, archaeological remains are encountered, the Permittee agrees to notify the Commission, who will, in turn notify the Department of Historic Resources. The Permittee further agrees to cooperate with agencies of the Commonwealth in the recovery of archaeological remains if deemed necessary.
- (15) The Permittee agrees to indemnify and save harmless the Commonwealth of Virginia from any liability arising from the establishment, operation or maintenance of said project.

The following special conditions are imposed on this permit:

- (16) The yellow placard accompanying this permit document must be conspicuously displayed at the work site throughout the construction phase of the authorized activity.
- (17) Permittee agrees to notify the Commission a minimum of 15 days prior to the start of the construction activities authorized by this permit.

A permit issuing fee of: \$100.00

and a royalty of: N/A (per Ch. 1018 Acts 2004)

for a total of \$100.00 This permit consists of 6 sheets.

PERMITTEE

Permittee's signature is affixed hereto as evidence of acceptance of all of the terms and conditions herein.

In cases where the Permittee is a corporation, agency or political jurisdiction, please assure that the individual who signs for the Permittee has proper authorization to bind the organization to the financial and performance obligations which result from activity authorized by this permit.

PERMITTEE

Accepted for Fr BelvoirBy Thomas W. Williams Cmdr Fr. Belvoir
(Name) (Title)State of VIRGINIACity (or County) of FAIRFAX, to-wit:

I, CHRISTA R. LACY, a Notary Public in and for said City (or County) and State hereby certify that THOMAS W. WILLIAMS, Permittee, whose name is signed to the foregoing, has acknowledged the same before me in my City (or County) and State aforesaid.

Given under my hand this 22nd day of APRIL, 2005My Commission Expires: 28 February 2009

Notary Public

Christa R. Lacy

COMMISSION

IN WITNESS WHEREOF, the Commonwealth of Virginia, Marine Resources Commission has caused these presents to be executed in its behalf by Tony Watkinson, Deputy Chief, Habitat Management

(Name) (Title) Marine Resources Commission

10th day of May, 2005

by

Tony Watkinson

State of Virginia

City of Newport News, to wit:

I, Barbara A. Cundiff, a Notary Public within and for said City, State of Virginia, hereby certify that Tony Watkinson, whose name is signed to the foregoing, bearing the 22nd day of March, 2005, has acknowledged the same before me in City aforesaid.

Given under my hand this 10th day of May, 2005My Commission Expires: 4-30-2007

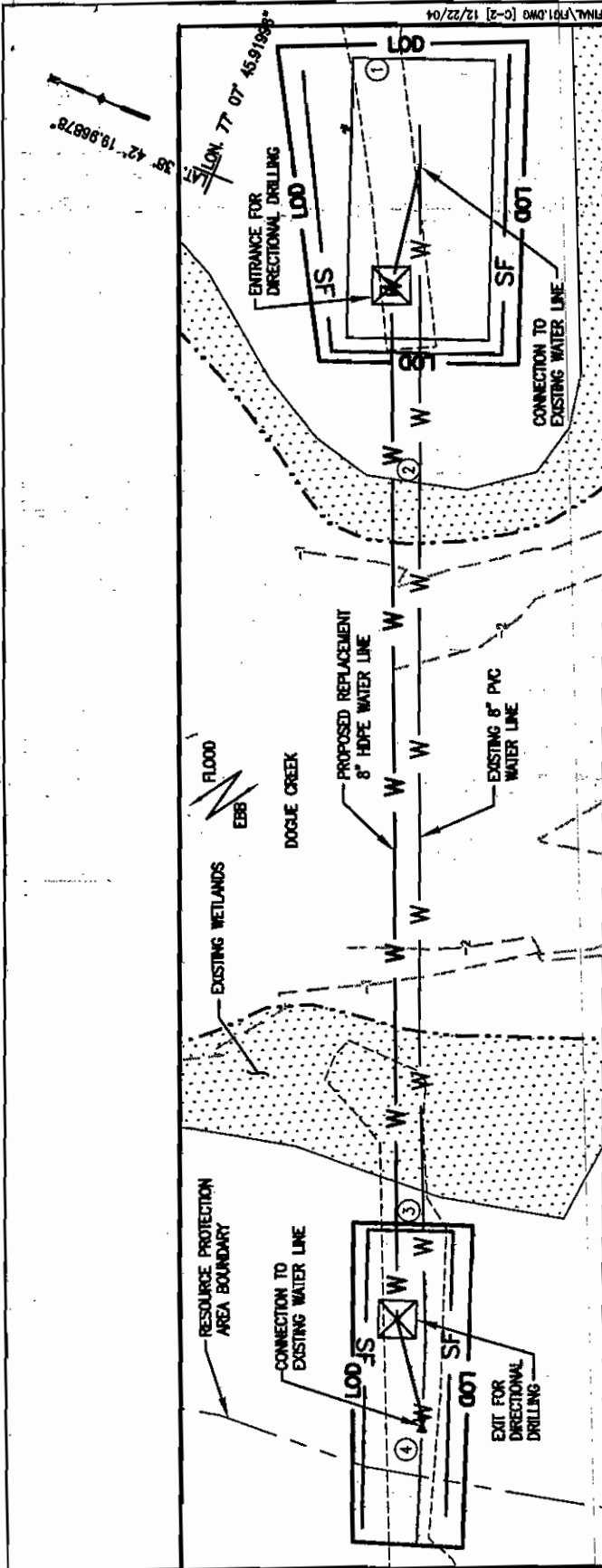
Notary Public

Barbara A. Cundiff



DEC 29 2004

MARINE RESOURCES COMMISSION



PLAN

SCALE 1" = 60'

TOTAL AREA OF
DISTURBANCE = 13,800 SF

By

LEGEND

- W — EXISTING WATER LINE
- W — NEW WATER LINE
- — — EXISTING ACCESS ROADS
- L — LIMIT OF DISTURBANCE
- SF — SALT FENCE
- — — WETLANDS
- — — SHORELINE
- — — RESOURCE PROTECTION AREA BOUNDARY
- — — CONTOURS
- ① — PHOTO LOCATION



GRAPHIC SCALE IN FEET

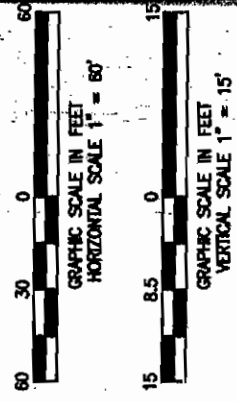
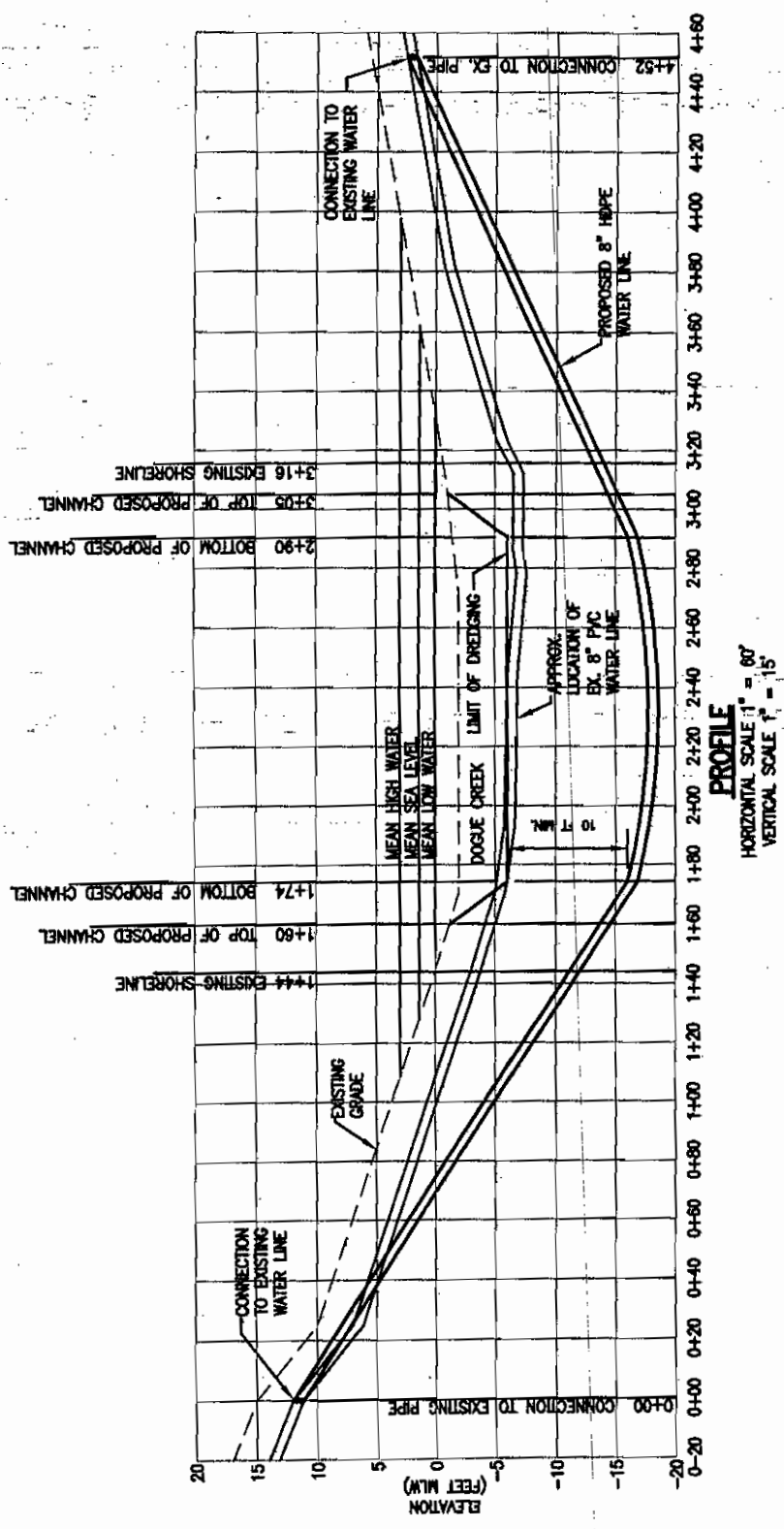
	DOGUE CREEK WATER LINE REPLACEMENT FORT BELVOIR, VA		DESIGNED BY ALA	DRAWN BY JAP	DATE 12-7-04	PROJECT NO. 61605.09
			CHECKED BY MUG/SJR	PROJECT MGR. JMB	SCALE 1"=60'	FIGURE 1

RECEIVED
DEC 20 2004

FILE PATH: C:\PROJECTS\BELVOIR\DWG\ORDINGS\WATERLINE REPLACEMENT\PRE-FINAL\F02.DWG (C-2)

MARINE RESOURCES COMMISSION

By	PROJECT NO. 6180509	FIGURE 2
DRAWN BY JAP	DATE 12-7-04	SCALE AS SHOWN
DESIGNED BY ALA	CHECKED BY MJC/SJR	PROJECT MGR. JMB



PROFILE
HORIZONTAL SCALE 1" = 80'
VERTICAL SCALE 1" = 15'

EA	EA ENGINEERING, SCIENCE, AND TECHNOLOGY	DOGUE CREEK WATER LINE REPLACEMENT FORT BELVOIR, VA	SITE PROFILE	FIGURE 2
----	---	--	--------------	----------